

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
LAKE BERRYESSA RECREATION AREA
INTERIM CONCESSION CONTRACT**

PLEASURE COVE MARINA

PLEASURE COVE MARINA, LLC

CONCESSION CONTRACT NO. 05-LC208905

**BUSINESS OFFICE
FOREVER RESORTS
7501 EAST McCORMICK PARKWAY
SCOTTSDALE, ARIZONA 85258
480-998-9977**

**BUSINESS LOCATION
PLEASURE COVE MARINA
6100 HIGHWAY 128
NAPA, CALIFORNIA 94558**

DOING BUSINESS AS: PLEASURE COVE MARINA

COVERING THE PERIOD JUN - 1 2005 THROUGH DECEMBER 1, 2007

Pleasure Cove Marina Concession Contract

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CONCESSION CONTRACT

IDENTIFICATION OF THE PARTIES

SOLE PROPRIETORSHIP

THIS Concession Contract is made and entered into by and between the United States of America, acting in this matter by the Secretary of the Interior, through the Regional Director, Mid Pacific Region of the Bureau of Reclamation, hereinafter referred to as "Reclamation", and Rex Maughan, an individual of Forever Resorts, doing business as Pleasure Cove Marina, LLC, hereinafter referred to as the "Concessionaire":

WITNESSETH:

WHEREAS, Lake Berryessa Recreation Area hereinafter referred to as the "area of operation" is administered by the Secretary as a unit of the Bureau of Reclamation hereinafter referred to as "Reclamation" system to conserve water, the scenery and the natural and historic objects and the wildlife therein, and to provide for the public enjoyment of the same in such manner as will leave such area of operation unimpaired for the enjoyment of future generations; and

WHEREAS, to accomplish these purposes, the Secretary has determined that certain facilities and services are necessary and appropriate for the public use and enjoyment of the area of operation, as determined from established planning criteria, and shall be provided for the public visiting the area of operation; and

WHEREAS, the Secretary is willing to allow a reasonable opportunity by the Concessionaire to realize a profit on the operations conducted on the area of operation commensurate with the capital invested and the obligations assumed; and

WHEREAS, implementation of the purposes specified above will not be inconsistent with the requirements of the Solano Project and will not interfere with the operation and responsibility of any and all entities associated with the project and identified by the Secretary; and

WHEREAS, the Secretary desires the Concessionaire to maintain and operate visitor services in the area of operation at reasonable rates under the supervision and regulation of the Secretary; and

WHEREAS, the Secretary desires the Concessionaire to conduct visitor services in the areas of operation in a manner that demonstrates sound environmental management, stewardship, and leadership; and

WHEREAS, the previous interim concession agreement for the Pleasure Cove Resort was terminated on March 28, 2005, thereby terminating all related agreements among other parties that depended on that previous concession agreement.

NOW, THEREFORE, pursuant to the authority contained in Reclamation Act of 1902, as amended and supplemented; Reclamation Project Act of 1939; the Federal Water Project Recreation Act of 1965, as amended; Reclamation Development Act of 1974, Public Law 93-493; and Public Law 96-375 as it applies; Reclamation Recreation Management Act, Title XXVIII of Public Law 102-575; and other laws

and policies that supplement and amend the acts, including the *Lake Berryessa Operational Policies OP 1-15*, *Reclamation's Concession Management Policy LND P02*, and *Directives and Standards LND 04-01*, the Secretary and the Concessionaire agree as follows:

DEFINITIONS

The following terms used in this concession Contract and the exhibits to this concession Contract will be defined, for the purposes of this concession Contract and exhibits, as set forth below. Definitions apply to both the singular and the plural forms of the defined terms. As regards this Contract and associated exhibits these definitions supersede any others found elsewhere:

Actual cash value – The cost of repairing the damaged property or replacing it with property of like kind and quality in the same physical condition, whichever is least expensive. A commonly used formula is replacement cost less depreciation.

Actual cost less depreciation - The actual cost of a fixed asset, less the depreciation, is the compensable interest of the asset.

Aggregate limits – Under a liability policy, the maximum dollar amount the insurance company will pay during the policy year regardless of the number of occurrences. (See General aggregate limits.)

All risks – An insurance policy that covers losses caused by any peril that is not excluded, as opposed to “named peril” policies that protect only against certain perils named in the policy.

Annual improvement management plan – A written document presenting a management plan for all improvements, including construction, repair, and maintenance projects to be undertaken by the Concessionaire during the following calendar year after the final submittal date.

Applicable Laws – The laws of Congress governing the area of operation, including, but not limited to, the rules, regulations, requirements, and policies promulgated under those laws, whether now in force, or amended, enacted or promulgated in the future, including, but not limited to Federal, State, and local laws, rules, regulations, codes, requirements, and policies governing nondiscrimination, protection of the environment, protection of public health and safety, zoning laws and ordinances, securities and exchange laws, and tax laws.

Approved project documents – Project drawings and specifications approved by Reclamation and used by the Concessionaire to direct a contractor in the type, size, and quality of projects.

Area of operation or concession area – The land and water area located within the Lake Berryessa recreation area designated as Exhibit A and in section 4-A as the Pleasure Cove Marina concession.

Best management practices – Policies and practices that apply the most current, advanced yet practicable means and technologies available to the Concessionaire to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this concession Contract. Best Management Practices are expected to change from time to time as technology evolves.

Bonded long-term recreation permittee trailer site – A trailer site located within the area of operation that is permitted to a single user or user group for their exclusive enjoyment, and who's Permittee has submitted a \$10,000 performance bond to Reclamation for removal and clean-up of all personal property, including the trailer, at the expiration of their agreement.

Capital improvement – A structure, fixture, or non-removable equipment provided by the Concessionaire pursuant to the terms of this concession Contract and located on lands of the United States within the area. A capital improvement does not include any interest in land. Additionally, a capital improvement does not include any interest in personal property of any kind including, but not limited to, vehicles, boats, barges, trailers, or other objects, regardless of size, unless an item of personal property becomes a fixture as defined in concession Contract. A Capital improvement is considered to be a real property improvement for the purposes of this concession Contract.

Concessionaire improvements – Such real property improvements, including buildings, structures, fixtures, equipment, and other improvements, affixed to or resting upon the assigned lands and waters that were placed after the date of the execution of this contract. The Concessionaire improvements do not include any interest in land.

Day or days – Shall mean calendar days.

Depreciation – The allocation of the cost of an asset over time for accounting or tax purposes to account for the decline in the value of an asset due to wear and tear or obsolescence. The method for calculating depreciation shall conform to generally accepted accounting principles or Internal Revenue Service (IRS) requirements whichever is appropriate to the application.

Direct damage – The actual physical damage or destruction of the insured property from fire or other insured peril. Direct damage extends to include damage when the insured peril is the proximate cause of the loss. For the proximate cause rule to apply there must be no intervening new and independent cause of damage between the fire and the loss. Direct damage differs from consequential loss, which stems only indirectly from a fire or other disaster.

Escrow – A legal arrangement that has three parties: a "depositor", an "escrow agent" and a "beneficiary". The depositor is the Concessionaire. The beneficiary is Reclamation. The escrow agent is the authorized agent to whom money is entrusted. The Concessionaire is required to deposit money with an escrow agent to be held by the escrow agent until it can be released to Reclamation or Concessionaire upon expiration of the concession Contract.

Exclusive use – Any use of the area of operation that excludes other appropriate public recreation use or users for extended periods of time. Exclusive use includes, but is not limited to, boat docks, cabins, trailers, manufactured or mobile homes, structures, roads, or other amenities that are determined by Reclamation to be exclusive use.

Exhibit or exhibits – The various exhibits, which are attached to this concession Contract, each of which is hereby made a part of this concession Contract and may be updated when signed by Concessionaire and approved by Reclamation in writing.

Federal estate – The Federal land and water areas under the primary jurisdiction of the Department of the Interior, Bureau of Reclamation.

Fixed assets – Any structures, fixtures, or capital improvements permanently attached to the Federal estate.

Franchise fee – A payment to the Government that is considered a direct return to the Government upon

consideration of the probable value to the Concessionaire of the use, rights, and privileges granted by this concession Contract. Such probable value shall be based upon a reasonable opportunity for net profit in relation to capital invested and the obligations of this concession Contract.

Gross receipts – The total amount received or realized by, or accruing to, the Concessionaire from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this concession Contract, commissions earned on Contracts or agreements with other persons or companies operating in the area, and gross receipts earned from electronic media sales, but excluding:

- Intra-company earnings on account of charges to other departments of the operation (such as laundry)
- Cash discounts on purchases
- Cash discounts on sales
- Interest on money loaned or in bank accounts
- Income from investments
- Income from subsidiary companies outside of the area
- Sale of property other than that purchased in the regular course of business for the purpose of resale
- Sales and excise taxes provided that the amount excluded shall not exceed the amount actually due or paid Government agencies

All monies paid into coin-operated devices, except telephones, whether provided by the Concessionaire or by others, shall be included in gross receipts. However, only revenues actually received by the Concessionaire from coin-operated telephones shall be included in gross receipts. All revenues received from charges for in-room telephone or computer access shall be included in gross receipts.

Imminent danger – A condition or practice with potential for loss of life or body part, permanent disability, and/or extensive loss of structure, equipment, or material.

Improvements – An addition to real property that increases its value or utility or that enhances its appearance.

Long-term recreation permittee trailer sites – Sites located within the area of operation that are permitted to a single user or user group for their exclusive enjoyment.

Loss payable clause – A condition of a policy whereby the company is directed by the insured to pay to some other person designated in the policy any loss that may be due (usually a mortgage).

Maintenance Plan – The Plan that delineates and specifies the maintenance responsibilities and standards of the Concessionaire and to the extent applicable those of Reclamation with regard to those lands and facilities within Pleasure Cove which are assigned to, or otherwise used by, the

Concessionaire for the purposes authorized by the Contract. In the event of any apparent conflict between the terms of the Contract and the Maintenance Plan, the terms of the Contract, including its designations and amendments, shall prevail. Reclamation will review the plan annually in consultation with the Concessionaire and revise it if Reclamation determines it to be necessary. Exhibit B contains a template plan which the Concessionaire can use in the development of the Maintenance Plan for the area of operation. The Maintenance Plan is to be submitted by the Concessionaire within 60 days of execution of the contract and, upon approval of Reclamation, shall become Exhibit B of this Contract.

Non-exclusive use – Short-term public use of recreation sites or areas located in the area of operation limited to no more than 14 days in any 30-day period. During the off-season, camping may be available for up to 14 days in any 30-day period, not to exceed three continuous months under an approved temporary permit agreement.

Operating Plan – The Plan that delineates and specifies the operating responsibilities of the Concessionaire with regard to those lands and facilities within Pleasure Cove that are assigned to, or otherwise used by, the Concessionaire for the purposes authorized by the Contract. In the event of any apparent conflict between the terms of the Contract and this Operating Plan, the terms of the Contract, including its designations and amendments, shall prevail. It will be reviewed annually by Reclamation in consultation with the Concessionaire and revised as determined necessary by Reclamation. Exhibit C contains a template plan which the Concessionaire can use in the development of the Operating Plan for the area of operation. The Operating Plan is to be submitted by the Concessionaire within 60 days of execution of the contract and, upon approval of Reclamation, shall become Exhibit C of this Contract.

Park Model – Small trailer with an interior space of under 400 square feet, licensed by the California Department of Motor Vehicles.

Property replacement value – Reclamation-approved value for replacement cost of property

Pro-Rata refunds – The refund amount due to a renter or permittee, which was the portion of a time that services were not rendered or there was no authority to charge for services that was previously charged to a renter or permittee for the full duration of the charged rental period.

Real property improvements – Real property other than land, including, but not limited to, capital improvements.

Reclamation – The person or persons who have been delegated the authority to administer this contract.

Reclamation improvements – Such real property improvements including buildings, structures, fixtures, equipment, and other improvements, affixed to or resting upon the assigned lands in such a manner as to be a part of the realty, provided by Reclamation, during the term of this Contract. Refer to Exhibit F.

Replacement cost – The estimated cost to reconstruct, at current prices, an existing structure with utilities equivalent to the existing structure, using modern materials and current standards, design, and layout.

Risk Management Program – The Program that is intended to prevent accidents and lessen the severity of injury or loss if an accident should occur. It is intended to encourage Concessionaires to have

a proactive safety program. It will identify potential hazardous practices and situations and establish guidelines for all employees to follow in conducting their work responsibilities safely and for maintaining a safe environment for area visitors and customers. It will also establish procedures and actions if an accident does occur. The Risk Management Plan is to be submitted within 60 days by the Concessionaire and, upon approval of Reclamation, shall become Exhibit D of this Contract.

Serious hazard – A condition or practice with potential for serious injury or illness resulting in temporary disability or property damage that is disruptive but less severe than imminent danger. An example is an open trench in front of a public area.

Structure – A building, dock, or similar edifice affixed to the land so as to be part of the real estate. A structure may include both constructed infrastructure (e.g., water, power, and sewer lines) and constructed site improvements (e.g., paved roads, retaining walls, sidewalks, paved driveways, and paved parking areas) that are permanently affixed to the land so as to be part of the real estate and that are in direct support of the use of a building, dock, or similar edifice. Landscaping that is integral to the construction of a structure is considered as part of a structure. Interior furnishings that are not fixtures are not part of a structure.

Straight-line depreciation – The method for calculating the depreciation of an asset which assumes the asset will lose an equal amount of value each year over the economic life of the asset. For the purpose of calculating CIR, the assumed economic life of the asset shall equal the economic life for the asset type stipulated by the IRS for the purposes of tax calculation using the straight-line depreciation method.

Trailer – A travel trailer or mobile home. The DMV categorizes travel trailers as RV's if the trailer (coach) is licensed by the DMV and under 400 sq. ft., or has dimensions not greater than 8 ½ by 45 feet. All other trailers are considered mobile homes.

Wastewater – Any liquid waste, whether treated or not, and whether animal, mineral, vegetable, including agricultural, industrial, and thermal wastes.

Vacancy – The absence of both people and personal property of a site within a concession area.

Visitor services – The accommodations, facilities, and services that the Concessionaire is required and/or authorized to provide by this concession Contract.

EXHIBITS

Exh.	Title	Responsibility	Comment
A	Area of Operations/Concessions Area	Reclamation	
B	Maintenance Plan	Concession	Reclamation's template attached
C	Operating Plan	Concession	Reclamation's template attached
D	Applicable Operational Policies	Reclamation	
E	Reclamation Concession Policy, Directives and Standards	Reclamation	
F	Inventory equipment and materials onsite before May 14, 2004	Reclamation	
G	Partnership agreement	Concession	If applicable
H	Partner disclosure statement	Concession	If applicable
I	New Long-Term Recreation Permittee Rental Agreements	Concession	Including rules and regulations
J	New Dock Berth Agreement Submittal	Concession	Including rules and regulations
K	New Dock Master Agreement Submittal	Concession	Including rules and regulations
L	Contract Expectations	Reclamation	

SECTION 1 – TERM OF CONCESSION CONTRACT

A. TERM CONTRACT

This interim concession contract No. 05-LC208905, herein and hereafter referred to as the "Contract" shall be effective on June 1, 2005, and shall be for the term ending on December 1, 2007, unless otherwise provided under B. herein. This Contract permits the Concessionaire continuation of identified public facilities and services following the termination of the previous concession Contract. This Contract because of its interim nature may not be transferred or assigned to a third party nor may property belonging to the Concessionaire be sold on site to a third party.

B. CONTRACT TERMINATION

The Concessionaire and Reclamation may terminate this Contract at any time upon mutual agreement.

Reclamation may terminate this concession Contract at any time to protect visitors to the area of operation or to protect, conserve, and preserve resources in the area of operation. Refer to exhibit L, "Contract Expectations," to review specific Contractual requirements, dates to complete these requirements and references to help guide the Concessionaire to successfully complete these requirements in a timely manner. Reclamation shall reserve the right to collect penalties and administrative costs and shall terminate this Contract for default and for non-performance.

1. Reclamation may automatically terminate this Contract if Reclamation determines that the Concessionaire has materially breached any requirement of this Contract, including, but not limited to, the requirement to maintain and operate visitor services to the satisfaction of Reclamation, the requirement to provide those visitor services required by Reclamation pursuant to this Contract, open the \$750,000 escrow account to ensure performance, requirement to develop and implement the Maintenance Plan, exhibit B, the requirement to develop and implement the Operating Plan, exhibit C, the requirement to pay the identified fees, the requirement to comply with a Risk Management Program (RMP), and the requirement to comply with Applicable Law and policies. The Contract will be subject to termination pursuant to the conditions set forth in the Operating Plan, exhibit C.
2. Reclamation may provide the Concessionaire the opportunity to cure a breach.
 - a. Monetary Breach - If Reclamation determines that it is appropriate to provide such an opportunity, Reclamation may issue a Letter of Default and provide the Concessionaire a fifteen (15) day period to cure the default. If the breach is not cured within that period, then Reclamation may terminate this Contract for default.
 - b. Non-Monetary Breach - If Reclamation determines that it is appropriate to provide such an opportunity, Reclamation may provide the Concessionaire thirty (30) days to (a) cure the breach, or (b) prepare a plan to cure the breach that is approved by Reclamation and to implement that plan over a period of time specified in the plan to the satisfaction of Reclamation. If the breach is not cured within the specified period of time, Reclamation may terminate this Contract for default.

Notwithstanding this provision, repeated breaches (two or more) of the same nature shall be grounds for termination for default without a cure period. In the event of a breach of any nature, Reclamation may suspend the Concessionaire's operations as appropriate (in whole or in part) in accordance with section 1. This Contract is subject to 43 CFR 4 Office of the Secretary of the Interior, Department of Hearings and Appeals Procedures, in the event of a default.

3. Reclamation may also terminate this Contract upon the filing or the execution of a petition in bankruptcy by or against the Concessionaire; a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor; an assignment by the Concessionaire for the benefit of creditors; a petition or other proceeding against the Concessionaire for the appointment of a trustee, receiver, or liquidator, or the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment, or other process of law or equity. Reclamation may terminate this Contract if Reclamation determines that the Concessionaire is unable to perform the terms of the Contract due to bankruptcy, insolvency or non-performance.
4. Reclamation may, at its discretion, terminate this Contract in the case of an unsatisfactory rating on any of the evaluations or inspections provided for in this Contract.

C. NOTICE OF BANKRUPTCY OR INSOLVENCY

The Concessionaire must give Reclamation immediate notice after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessionaire must also give Reclamation immediate notice of any petition or other proceeding against the Concessionaire for the appointment of a trustee, receiver, or liquidator, or the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment, or other process of law or equity. For purposes of the bankruptcy statutes, Reclamation considers that this Contract is not a lease but an executory Contract exempt from inclusion in assets of the Concessionaire pursuant to 11 U.S.C. 365.

D. REQUIREMENTS IN THE EVENT OF TERMINATION OR EXPIRATION

Termination of this Contract for any reason shall be by written notice to the Concessionaire

In the event of termination of this Contract for any reason, or expiration of this Contract, the total compensation due the Concessionaire for all permanent facilities placed by the Concessionaire in the area of operation is as described in section 5 of this Contract. No other compensation of any nature shall be due the Concessionaire in the event of a termination or expiration of this Contract, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination or expiration.

Upon termination of this Contract for any reason, or upon its expiration, and except as otherwise provided in this section, the Concessionaire shall, at the Concessionaire's expense, promptly vacate the area, remove all of the Concessionaire's personal property, repair any damage occasioned by installation or removal of such property, and ensure that concession facilities, and/or assigned land are in at least as good condition as they were at the beginning of the term of this Contract, reasonable wear and tear excepted. Upon expiration of the Contract, the removal of such personal property must be complete by December 1, 2007, unless Reclamation requires immediate removal.

E. CONTRACT SUSPENSION

Reclamation may temporarily suspend operations under this Contract in whole or in part, as deemed necessary, in order to protect area visitors or to protect, conserve, and preserve area resources. This Contract may be suspended in whole or in part, for Contract violations that include, but are not limited to, administrative deficiency, operational deficiency, health and safety, employee drug use, environmental regulation noncompliance, as deemed necessary by Reclamation. No compensation of any nature shall be due the Concessionaire by Reclamation in the event of a suspension of operations, including, but not limited to, compensation for losses based on lost income, profit, wages, or the necessity to make expenditures as a result of the suspension.

F. CONTRACT EXTENSION

The term of this Contract may not be extended beyond December 1, 2007.

G. NO RIGHT OF RENEWAL PREFERENCE

This Contract does not include a right of renewal.

H. CONTRACT SALE OR TRANSFER OF INTERESTS

The Concessionaire shall not transfer, assign, sell, or otherwise convey or pledge any property or other interests under this Contract.

I. ASSIGNMENT, SALE, OR ENCUMBRANCE OF INTERESTS

The Concessionaire under "Section 1.H." of this Contract has no rights for assignment or sale of interests pertaining to the operations required and authorized. Reclamation shall not be obliged to recognize any right of any person or entity to an interest in this Contract of any nature, including, but not limited to, operating rights under this Contract, if obtained in violation of this Contract and/or Applicable Law and policies. Sub-concessions are not permitted.

The Concessionaire shall advise any person(s) or entity proposing to enter into a transaction of the requirements of Applicable Law and the requirements of this Contract pertaining to non- authorization of assignment, sale or encumbrance of interests.

SECTION 2 - SERVICES AND OPERATIONS

A. REQUIRED AND AUTHORIZED SERVICES

1. During the term of this Contract, the Concessionaire is required to provide the following services to the public within the area of operation:
 - a. Public Camping – Manage and maintain public camping and ancillary services and facilities for tent and recreational vehicle (RV) camping, including the completion of the new restroom facility. The Concessionaire is required to provide 150 camp sites in the Main Campground, Brook Circle East and Brook Circle West. If park model rental cabins are added to the existing RV sites, the number of total camp sites may include these units.
 - b. Marina – Manage and maintain public marina and ancillary services and facilities, i.e., public docks, slip rentals, boat launch ramp, marine fuel, houseboat services, etc. Concessionaire is required to provide a minimum of 80 marina rental slips for the various sized vessels up to 40 feet in length, within 90 days from the execution of this Concession Contract. Concessionaire is required to provide a minimum of 10 marina rental slips for vessels over 40 feet in length, within 90 days from the execution of this Concession Contract.
 - c. Bonded Long-term Recreation Permittee Trailer Sites – The Concessionaire is required to manage and maintain facilities for the use of bonded long-term trailer users assigned to the area. These long-term trailer uses must end by November 1, 2005. Permittees must remove their personal property from these sites by December 15, 2005. If the long-term sites are vacated prior to this date, no other long-term trailer users will be allowed to use the sites for the duration of the Contract. As specified in Section 10.7., the Concessionaire is required to remove any remaining abandoned trailers by February 28, 2006.
 - d. Dock Master Program - Concessionaire is required to manage and maintain services and facilities for private dock stringers currently assigned to the area. These private long-term dock uses must end by November 1, 2005. All private docks and personal property must be removed from the federal estate by the owners no later than December 15, 2005. As specified in Section 10.7., the Concessionaire is required to remove any remaining abandoned docks by February 28, 2006.
 - e. Retail Sales – Concessionaire is required to manage and maintain public retail sales areas featuring supplies such as groceries, boating and fishing supplies, camping supplies, applicable sundries and souvenirs. Reclamation retains the right to prohibit the sale of certain items.
 - f. Unfinished Restroom - Concessionaire is required to complete, manage and maintain the unfinished shower/restroom building located on the corner of the junction of the Main Road and the entrance to the Main Campground. The shower/restroom building shall be operational by July 1, 2005, prior to the Fourth of July weekend.

2. During the term of this Contract, the Concessionaire may be authorized to provide the following services with approval by Reclamation:
 - a. Restaurant and Lounge Operation – Manage and maintain a restaurant providing a range of menu items targeting campers and boaters.
 - b. Convert to RV sites – Manage and maintain public facilities for Recreational Vehicles. Vacated long-term recreation permittee trailer sites may be re-rented as short-term RV sites with Reclamation approval.
 - c. Watercraft Rental Operation – Manage and maintain rental facilities for commercial houseboats, pleasure boats and Personal Water Craft. For houseboat rentals, the Concessionaire is required to submit a request for an allocation of commercial houseboat permits at Pleasure Cove Marina. There is a limit of 75 commercial houseboat permits lake-wide at Lake Berryessa.
 - d. Additional Marina Slip Rentals – The Concessionaire is authorized to provide a maximum of 400 marina rental slips for various sized vessels under 40 feet in length. For vessels greater than 40 feet in length, the Concessionaire is required to submit a request for an allocation of private houseboat permits at Pleasure Cove Marina. There is a limit of 75 private houseboat permits lake-wide at Lake Berryessa.
 - e. Other Camping Opportunities – Develop, manage, and maintain camping opportunities in the “outback” portion of the Marina. This may include boat-in and walk-in camping.

During the term of this Contract, the Concessionaire is not authorized to provide any service, facility, or activity not identified in either category (required or authorized above) listed in sections 2. A. 1 and 2. A. 2 of this Contract except as an amendment to this Contract and signed by Reclamation. Reclamation shall prescribe the time-use limitations in the Operating Plan set forth in exhibit C of this Contract, which may be changed from time to time during the term of this Contract, at the discretion of Reclamation.

B. SCOPE OF SERVICES AND OPERATING PLAN

Reclamation reserves the right to determine and control the nature, type, price (Section 2.D.) and quality of the services provided and merchandise sold within the area of operation as described in this Contract. All such services and merchandise will be compatible with the intent of the Contract and questions of applicability or requests for variance shall be forwarded to Reclamation for consideration. Approvals must be in writing.

The Concessionaire shall provide, operate, and maintain the required and authorized visitor services and any support facilities and services in accordance with this Contract to such an extent and in a manner considered satisfactory by Reclamation. The Concessionaire is authorized to provide visitor services under the terms of this Contract within the area of operation on a nonexclusive use basis.

The Concessionaire shall comply with all conditions set forth in the Operating Plan. The initial Operating Plan will be submitted by the Concessionaire within 60 days from the date of this contract and shall become exhibit C, attached here in. Reclamation, after consultation with the Concessionaire, may make reasonable modifications to the initial Operating Plan from time to time that are in furtherance of the purposes of this Contract and are not inconsistent with the terms and conditions of the main body of this Contract.

Due to the approaching expiration of the other six concession contracts at Lake Berryessa it is possible that any of the other concessionaires could have their contract terminated in advance because of financial or performance problems. In the event this occurs and Reclamation determines it necessary to establish an interim concessionaire, in a similar manner as this contract, the Pleasure Cove concessionaire could be assigned that responsibility through an amendment to this contract. This opportunity is being outlined in advance to provide operating efficiency and a relatively quick transition if such an incident(s) occur. Such an assignment would be pending the satisfactory performance by the concessionaire at Pleasure Cove and the mutual agreement by both parties to take on the additional responsibilities.

C. LEGAL, REGULATORY, AND POLICY COMPLIANCE

This Contract, and its administration by Reclamation, shall be in accordance with all Applicable Laws governing the area of operation. The Concessionaire shall operate and maintain its facilities and appurtenances in safe working order, and shall comply with all Applicable Laws, policies, and orders and the directives of any other public authority affecting such works.

The Concessionaire shall give Reclamation immediate written notice of any violation of Applicable Law by the Concessionaire, including its agents, or Contractors, and, at its sole cost and expense, must promptly rectify any such violation.

All correspondence/notices required by this Contract shall be in writing and shall be served on the parties at the following addresses. The mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service. Notices sent to Reclamation shall be sent to the Lake Berryessa Office Park Manager with a cc to the Area Manager at CCAO at the following address:

Name:	Park Manager
Site name:	Bureau of Reclamation
Address:	5520 Knoxville Road, Napa, CA 94558
Cc:	Area Manager, Attn: CC-400 Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, CA 95630
Notices sent to the Concessionaire shall be sent to the following address:	
Concessionaire:	
Address:	
Attention:	

D. RATES FOR GOODS AND SERVICES

Rates for all required and authorized goods and services, including both long and short-term facilities and services, shall be reasonable and appropriate for the type and quality of merchandise, facilities, and/or services required and/or authorized under this Contract. Rate approvals shall be requested in advance by the Concessionaire in writing to Reclamation. The initial rate request of this Contract shall be made within 30 days from the date of this Contract for all long and short-term services and associated services for the 2005 recreation season. All rate increases for services and merchandise must be approved by Reclamation. These rates shall be determined by comparable market rates for goods and services provided by the private sector operating in a competitive environment under similar operating conditions. Reclamation and the Concessionaire shall agree in advance and outline in the operating plan the annual time frames for rate submittal and approval to assure that the Concessionaire has approved rates at an annual desired date.

Reclamation will conduct rate reviews and analysis prior to coming to a decision on the approval or disapproval of requested rates to the public.

The Concessionaire shall require its employees to observe strict impartiality as to rates and services in all circumstances. The Concessionaire may, subject to the prior approval of Reclamation, grant complimentary or reduced rates under such circumstances as are customary in businesses similar to that which will be conducted under this Contract. However, Reclamation reserves the right to review, approve or disapprove the Concessionaire's complimentary or reduced rate policies.

The Concessionaire shall prominently post all rates and charges for goods and services provided to the visiting public in accordance with the Operating Plan as approved by Reclamation.

E. NONDISCRIMINATION OF SERVICE TO VISITORS

Concessionaire employees shall not discriminate when setting rates or providing services to visitors. The Concessionaire shall comply with all Applicable Law and regulations, whether now in force or made effective after the execution of this Contract, relating to nondiscrimination in providing services.

F. CONCESSIONAIRE EMPLOYEES

The Concessionaire shall employ all personnel necessary to provide the visitor services required and authorized by this Contract.

The Concessionaire shall comply with all applicable laws relating to employment and employment conditions.

The Concessionaire shall require and ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public and with Reclamation employees. The Concessionaire will require its employees to wear a uniform or name badge by which they may be identified as employees of the Concessionaire.

The Concessionaire shall review the conduct of any of its employees whose action or activities are considered by the Concessionaire or Reclamation to be inconsistent with the proper administration of the area and protection of visitor safety and enjoyment and shall take such actions as are necessary to correct the situation.

G. CONCESSIONAIRE EMPLOYMENT CONDITIONS

The Concessionaire shall comply with applicable laws relating to employment of workers, nondiscrimination in employment, and providing accessible facilities and services.

The Concessionaire shall maintain, to the greatest extent possible, a drug-free environment, both in the workplace and in any Concessionaire employee housing, within the area of operation. The Concessionaire shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and in the area of operations and specifying the actions that will be taken against employees for violating this prohibition. In addition, the Concessionaire shall establish a drug-free awareness program to inform employees about the danger of drug abuse in the workplace, posting the availability of drug counseling, i.e., county services, and the Concessionaire's policy of maintaining a drug-free environment both in the workplace and in the area of operation.

The Concessionaire shall conduct educational programs for its employees to deter substance abuse and alcohol abuse. Those employees who are in safety sensitive positions, determined by or consistent with Federal, State, or local health, law enforcement, or other appropriate agency, will be required to participate in periodic drug testing. The Concessionaire will promptly report illegal drug use to Reclamation, should it occur. It is the responsibility of the Concessionaire to structure a drug testing program that ensures, to the greatest extent possible, a drug-free workplace. The Concessionaire shall provide Reclamation with a written summary of drug testing activity, if any, on an annual basis.

The responsibility of the Concessionaire may be exercised through an external agreement with individuals, companies, or agencies qualified to provide such assistance.

H. CONCESSIONAIRE REVIEW PROGRAM

The Concessionaire shall be evaluated by Reclamation under the Concessionaire Review Program. The Concessionaire Review Program will consist of four separate evaluations: (1) Operation and Facilities Evaluation, (2) Public Health Service Inspection, (3) Safety and Environmental Evaluation, and (4) Contract Compliance Evaluation. Other inspections may be conducted as required. The Operation and Facilities Evaluation shall be conducted quarterly during the operating season but not less than three (3) times per year. All other evaluations shall be conducted semi-annually or more frequently, as needed.

I. LEGAL VEHICLE USES IN THE CONCESSION AREA

The Concessionaire shall not discriminate based on the kind of licensed vehicle, motorcycle or recreational vehicle driven by a visitor into the public facilities and service areas.

SECTION 3 - PROTECTION AND INTERPRETATION OF AREA RESOURCES

A. ENVIRONMENTAL MANAGEMENT OBJECTIVES

The Concessionaire shall meet the following environmental management objectives, hereinafter known as "environmental management objectives," in the conduct of its operations under this Contract:

1. The Concessionaire, including its employees, agents, and Contractors, shall comply with all Applicable Laws pertaining to the protection of the public, employees, and natural and cultural resources within the area of operation.
2. The Concessionaire shall incorporate Best Management Practices in its operation, construction, maintenance, acquisition, provision of visitor services, and other activities under this Contract.
3. The design, construction, and operation of the facilities and the provision of services under this Contract shall be performed in a manner that prevents, identifies, and reduces pollution at the source. The Concessionaire shall comply with all Applicable Law and Reclamation policies and instructions adopted and implemented during the term of this Contract concerning any hazardous materials that will be used, produced, transported, stored, or disposed of on or in lands, water, or facilities owned by the United States of America or administered by Reclamation.
4. A Concessionaire may not knowingly allow contamination of lands, water, or facilities within the area of operation by hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial/commercial waste, petroleum products, mine tailings, mineral salts, pesticides, pesticide containers, or any other pollutants, including, but not limited to, misuse of pesticides.
5. The Concessionaire's operation, maintenance, acquisition, and purchasing activities will, to the extent practical, promote the use of environmentally preferable products, including materials and supplies with recycled content, and will avoid or minimize the quantity of toxic and hazardous materials entering the waste stream.
6. The Concessionaire shall immediately report to Reclamation any event that may or does result in pollution or contamination adversely affecting lands, water, or facilities within the area of operation.

B. ENVIRONMENTAL MANAGEMENT PROGRAM

The Concessionaire shall, to the satisfaction of Reclamation, and consistent with the Environmental Evaluation criteria in C below shall provide a plan for implementation as a part of the operating plan, exhibit C.

C. ENVIRONMENTAL EVALUATION

During this interim Contract the Concessionaire shall be evaluated by Reclamation on its environmental performance under this Contract:

1. Hazardous wastes are properly identified and managed. First priority (A)
2. An Oil and Hazardous Substance Spill Contingency Plan is in place; all employees are trained in first response procedures; Reclamation and appropriate regulatory authorities are notified of any spill or release of a hazardous substance. First priority (A)
3. A hazardous waste minimization strategy is in place, reporting requirements are met, and progress is being made toward reduction goals. Second priority (B)
4. Areas of contamination caused by or attributable to the Concessionaire are cleaned up to the satisfaction of Reclamation and regulatory authorities. First priority (A)
5. Hazardous materials inventories and use records are maintained and provided to Reclamation. Hazardous materials are stored and handled in a manner that minimizes the potential for spill or release. First priority (A)
6. A solid waste minimization strategy is in place, waste generation information is provided to Reclamation, and progress is being made toward waste reduction goals. Second priority (B)
7. An affirmative procurement program is in place to ensure that, where available, products containing recycled material or materials that are environmentally preferable are preferentially acquired (Green Procurement). Second Priority (B)
8. The Concessionaire will conserve energy and improve energy efficiency of operations being implemented. Every effort will be made to assure that environmentally safe and sustainable energy sources are used. Second priority (B)
9. The goals and objectives of the area's water conservation program are being met. Second priority (B)
10. Prior written approval has been obtained from Reclamation for implementation of any pesticide, herbicide, or vector control action. First priority (A)
11. Sight, sound, and odor impacts to the environment and visitor experience are avoided when possible. Second priority (B)
12. Care is exercised to avoid introduction of nonnative biota except as approved by Reclamation. First priority (A)
13. The Concessionaire conducts recurring training for staff concerning the critical importance of pollution prevention and spill report procedures, emergency incident and spill response, water and energy conservation, and the Concessionaire's role in stewardship of area of operation lands and waters. Training of employees in emergency and spill response includes field exercises done in coordination with Reclamation. First

Priority (A)

14. Employee incentive system is in place to reward employees for innovative or exemplary contributions toward prevention of pollution and to allocate some of the savings gained in energy and water conservation programs back to staff members who produce those gains. Second Priority (B)
15. Planning and design for facilities are coordinated with Reclamation, including application sustainable design principles and Reclamation reviews and approvals including, but not limited to, procedures imposed by Federal, State, County, or Municipal regulations (e.g., National Environmental Policy Act, Historic Preservation Act (Section 106) and fire and safety and building codes). First Priority (A)
16. Required environmental protection and pollution prevention facilities are in place or are in the process of being acquired, designed, or constructed with due diligence. Construction is conducted in a manner that prevents or minimizes pollutant emissions or discharges and protects public health and the environment. First Priority (A)

D. ENVIRONMENTAL DATA, REPORTS, NOTIFICATIONS, AND APPROVALS

1. **Inventory of Hazardous Substances and Inventory of Waste Streams** - The Concessionaire shall submit to Reclamation, at least annually, an inventory of Federal Occupational Safety and Health Administration (OSHA) designated hazardous chemicals used and stored in the area of operation by the Concessionaire. Reclamation may prohibit the use of any OSHA hazardous chemical by the Concessionaire in operations under this Contract. The Concessionaire shall obtain Reclamation's approval before using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this Contract. The Concessionaire shall also submit to Reclamation, at least annually, an inventory of all waste streams generated by the Concessionaire under this Contract. Such inventory shall include any documents, reports, monitoring data, manifests, or other documentation required by Applicable Law regarding waste streams.
2. **Reports** - The Concessionaire shall submit to Reclamation copies of all documents, reports, monitoring data, manifests, and other documentation required under Applicable Law to be submitted to any regulatory agencies. The Concessionaire shall also submit to Reclamation any environmental plans for which coordination with area operations are necessary and appropriate, as determined by Reclamation in accordance with Applicable Law. The Concessionaire shall submit a quarterly report on the amount of toxic chemicals entering the waste stream from concession facilities.
3. **Notification of Releases** - The Concessionaire shall give Reclamation immediate written notice of any discharge, release, or threatened release (as these terms are defined by Applicable Law) within or in the vicinity of the area of operation, (whether solid, semisolid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including, without limitation, building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product, or petroleum byproduct.
4. **Notice of Violation** - The Concessionaire shall give Reclamation, in writing, immediate notice of any written, threatened, or actual notice of violation from other regulatory agencies

of any Applicable Law arising out of the activities of the Concessionaire, its agents, or employees.

5. **Communication with Regulatory Agencies** - The Concessionaire shall provide timely written advance notice to Reclamation of communications, including without limitation, meetings, audits, inspections, hearings, and other proceedings, between regulatory agencies and the Concessionaire related to compliance with Applicable Law concerning operations under this Contract. The Concessionaire shall also provide to Reclamation any written materials prepared or received by the Concessionaire in advance of or subsequent to any such communications. The Concessionaire shall allow Reclamation to participate in any such communications. The Concessionaire shall also provide timely notice to Reclamation following any unplanned communications between regulatory agencies and the Concessionaire.

E. CORRECTIVE ACTION

1. The Concessionaire, at its sole cost and expense, shall promptly control and contain any discharge, release, or threatened release, as set forth in this section, or any threatened or actual violation, as set forth in this section, arising in connection with the Concessionaire's operations under this Contract, including, but not limited to, payment of any fines or penalties imposed by appropriate agencies. Following the prompt control or containment of any release, discharge, or violation, the Concessionaire shall take all response actions necessary to remediate the release, discharge, or violation and to protect human health and the environment.
2. Even if not specifically required by Applicable Law, the Concessionaire shall comply with directives of Reclamation to cleanup or remove any materials, product, or byproducts used, handled, stored, disposed, or transported onto or into the area of operation by the Concessionaire to ensure that the area of operation remains in good condition.

F. INDEMNIFICATION AND COST RECOVERY FOR ENVIRONMENT ACTIVITIES

1. The Concessionaire shall indemnify the United States in accordance with section 7 of this Contract from all losses, claims, damages, environmental injuries, expenses, response costs, allegations or judgments (including, without limitation, fines, and penalties), and expenses (including, without limitation, attorneys' fees and experts' fees) arising out of the activities of the Concessionaire, its employees, agents, and Contractors pursuant to this section. Such indemnification shall survive termination or expiration of this Contract.
2. If the Concessionaire does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessionaire, its employees, agents, and Contractors, as set forth in this section, or correct any environmental self-assessment finding of noncompliance, in full compliance with Applicable Law, Reclamation may, in its sole discretion and after notice to the Concessionaire, take any such action consistent with Applicable Law as Reclamation deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessionaire shall be liable for and shall pay to Reclamation any costs incurred by Reclamation associated with such action, upon demand. Nothing in this section shall preclude the Concessionaire from seeking to recover costs from a responsible third party.

3. Any intentional violation of any of the provisions of this section shall constitute grounds for initiation of the procedure for immediate termination of the Contract and shall make the Concessionaire liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

G. WEED AND PEST MANAGEMENT

1. The Concessionaire shall be responsible for managing vermin and other pests on all authorized land and in all facilities assigned for the use in conducting operations under the Contract. Plants and animals that are native to the area of operation may not be removed or harmed except with the prior written approval of Reclamation. The Concessionaire shall not allow planting of any non-native vegetation by employees, trailer permittees or visitors.
2. The Concessionaire shall submit to Reclamation a Pesticide Use Proposal at least thirty (30) days in advance of any pesticide application. The Concessionaire is responsible for complying with all training (Federal, State, and local), operational requirements, and licensing requirements as may be pertinent to and required for the application of pesticides within the State of California.

H. HAZARDOUS MATERIALS

1. The Concessionaire shall maintain health and safety standards and take necessary mitigative and corrective measures to ensure healthy working and living environments in all assigned buildings and improvements. The Concessionaire shall store, handle, and use hazardous materials in a manner that protects workers from harmful exposure, minimizes the potential for spills and releases, and reduces the use of these materials to diminish the subsequent generation of hazardous waste.

Hazardous materials shall be handled in accordance with OSHA 29 CFR 1910 and 1926. Examples of hazardous materials requiring special management controls include asbestos, radon, and lead-based paint. The Concessionaire shall obtain Reclamation approval before using chemicals, pesticides, and toxic materials. Applications and methods of use shall conform to Applicable Law, and applicable codes, policies, and guidelines.

2. **Hazardous Materials-Related Training** - The Concessionaire shall provide training to all employees in accordance with 29 CFR 1910.120 (First Responder for Hazardous Materials Incidents) and 29 CFR 1910.1200 (Hazard Communication). The Concessionaire shall comply with all applicable laws pertaining to hazardous materials.
3. **Hazardous Waste Minimization and the Use of Environmentally Preferable Products** - The Concessionaire shall attempt to minimize the use of hazardous materials in its operations with the purpose of diminishing the amount of hazardous waste generated over time. The Concessionaire shall seek to use less toxic materials and products that are environmentally preferable as a general means to minimize hazardous waste. If the Concessionaire generates more than 100 kilograms per month of hazardous waste, the Concessionaire must provide Reclamation with a Hazardous Waste Minimization Plan. To track any trends for waste generated, the Concessionaire must provide information on all hazardous waste management (recycling and disposal) to Reclamation quarterly.

I. SOLID WASTE MINIMIZATION

The Concessionaire shall to the extent possible minimize the solid waste stream that is a product of the operation by the exercise of Best Management Practices.

J. DRAINAGE AND STORM WATER POLLUTION PREVENTION

1. The Concessionaire shall implement Best Management Practices to prevent the degradation of water quality in storm water and other runoff from facilities assigned to the Concessionaire. Erosion controls must be implemented at construction sites with disturbed soils exposed. Vehicle and equipment washing must not be allowed to run off untreated water; oil/water separation must occur prior to discharge. Any improvements to drainage systems must be made in accordance with applicable laws.
2. The Concessionaire shall ensure proper drainage control to protect landscapes, native vegetation, structures, facilities, improvements, and equipment while maintaining natural drainage patterns to the greatest extent possible.

K. RECYCLING AND CONSERVATION

1. The Concessionaire will implement a source reduction program designed to minimize concession use of disposable products in its operations. Polystyrene and plastics will be used as little as possible (and then only polystyrene not containing chlorofluorocarbon). Where disposable products are needed, products that have the least impact on the environment shall be used.
2. Recycling and Beverage Container Programs - The Concessionaire shall implement a recycling program that fully supports the efforts of Reclamation. Products to be recycled include, but are not limited to, paper, newsprint, cardboard, bimetals, plastics, aluminum, glass, waste oil, antifreeze, and batteries.
3. The Concessionaire shall provide recycling bins in all visitor areas. The Concessionaire is responsible for emptying these bins as needed and for ensuring that these recovered materials are delivered for recycling.
4. Water and Energy Conservation - The Concessionaire will implement water and energy conservation measures for each of its operations. As new technologies are developed, the Concessionaire will explore the possibility of integrating them into existing operations where there is potential for increased efficiency, reduced water or energy consumption, or reduced impacts on the environment.

L. WASTEWATER TREATMENT

1. The Concessionaire shall ensure that all wastewater systems are operated in accordance with all Applicable Law, and applicable codes, policies, and guidelines.
 - a. For Wastewater that will be discharged into surface water, the wastewater

treatment facility must comply with the effluent limitation requirements established in Public Law 92-500 (Clean Water Act) and be permitted in accordance with the National Pollutant Discharge Elimination System, as administered by the Environmental Protection Agency.

- b. The operation and maintenance of the Wastewater System shall be overseen by a Class I Water Sewage Plan Operator.
 - c. All new wastewater treatment facilities must be designed in accordance with the best practicable wastewater treatment technology and be based on sound engineering standards such as those established by the American Society of Civil Engineers or the Recommended Standards for Wastewater Facilities (10 States Standards) prepared by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers.
 - d. When wastewater system modifications or new construction are proposed, the Concessionaire will submit plans and specifications to Reclamation for approval.
2. All new vault toilets will incorporate the Sweet Smelling Toilet (SST) or similar design features. Vault toilets shall be pumped as necessary. All toilets will be cleaned and re-supplied as often as necessary to maintain a high degree of sanitation. Adequate sanitation facilities will be required for remote areas such as river rafting, horseback riding, backpacking, and similar activities.
3. Septic tanks or lift-stations will be inspected annually by the Concessionaire to determine the amount of accumulated scum and sludge. Records of septic tank measurements, inspections, and pumping will be available for review by Reclamation. Septic tank risers will be provided for inspection holes to facilitate inspection and pumping. Septic tanks will be pumped when the scum and or sludge levels in the tank dictate (generally every 3 - 5 years). The bottom of the scum should never be closer than 3 inches to the bottom of the outlet device, and the top of the sludge layer should never be less than 8 inches from the bottom of the outlet device. Records of septic tank measurements, inspections, and pumping should be maintained and be available for review by Reclamation.
4. Septic tank drain fields will be surveyed annually during a high-use period to identify system failures such as odors and surfacing wastewater. The drain field should be kept clear of trees and bushes, which may send roots into the drain field piping system causing clogging and premature failure. Additives, to enhance bacterial growth in septic tank systems are generally not recommended.
5. Personnel who routinely come into contact with sewage or who work in or inspect wastewater treatment facilities, lagoons, etc., must have a current immunization for tetanus. Wastewater treatment plant personnel shall not eat, drink, or smoke when performing maintenance or inspecting equipment, which may be contaminated with human sewage. Workers cleaning up wastewater spills will wear coveralls, rubber boots, and rubber gloves. On completion of cleanup, workers shall take a hot shower using sufficient soap and water, remove clothing and place in plastic bag for laundering, rinse rubber boots, gloves, and other protective equipment with 100 ppm disinfectant solution of hypochlorite.
6. In the event of a wastewater leak or spill, Reclamation will be notified immediately.

Facilities and equipment contaminated with sewage as a result of leaks, spills, and sewage system backflow will be thoroughly washed down with water and detergent.

7. Sewage Lagoons shall be monitored every two (2) weeks for liquid coloration, presence of septic odors, properly operating aerators, material floating on the surface, insect breeding, and vegetation growth. The dikes shall be free of rodent burrows. Vegetation on the dikes and at the waterline shall be controlled. All lagoons shall be signed and fenced in such a manner to exclude unauthorized entry. An all-weather road should be constructed for each lagoon.

M. PROTECTION OF CULTURAL AND ARCHEOLOGICAL RESOURCES

Discoveries of any archeological resources by the Concessionaire shall be promptly reported to Reclamation. The Concessionaire shall cease work or other disturbance that may impact any protected site or archeological resource until Reclamation grants approval, upon such terms and conditions as Reclamation deems necessary, to continue such work or other disturbance.

N. INTERPRETATION OF AREA RESOURCES

The Concessionaire shall provide all required and authorized services in a manner that is consistent with and supportive of the general education and interpretation of the area of operation. The Concessionaire may assist in interpretation in the area of operation at the request of Reclamation to enhance visitor enjoyment of the area. Reclamation will consider approval of any offer by the Concessionaire to conduct formal commercial interpretive programs if the content and conduct of such is determined to be of adequate quality. The Concessionaire shall allow Reclamation employees or their assigned representatives to conduct interpretive and educational programs within the concession area to meet Reclamation goals and that do not interfere with those services provided by the Concessionaire.

The Concessionaire is encouraged to develop interpretive materials or means to educate visitors about environmental programs or initiatives implemented by the Concessionaire and to support educational efforts through such actions as developing printed material (menus, marketing, correspondence, etc.), using outdoor signs, and, as appropriate, formal programs.

The proposed content in any interpretive programs, exhibits, displays, correspondence, marketing, or on signs shall be submitted to Reclamation for review and written approval before being offered to area of operation visitors.

O. RISK MANAGEMENT PROGRAM (RMP)

The Concessionaire shall provide a safe and healthful environment for all employees and visitors. The Concessionaire shall comply with the following performance standards. The Concessionaire will be evaluated, based on compliance with these standards, in the Concessionaire Review Program.

1. The Concessionaire shall be committed to provide a safe and healthy environment for the employees and visitors. At a minimum, it will address procedures to identify and correct safety deficiencies and measures to ensure safety awareness and training in hazards recognition. The Concessionaire shall outline accountability and responsibility for managers, supervisors, and employees. The Concessionaire policy shall be distributed to employees or is posted conspicuously. The scope and complexity of the program is commensurate with the

size and type of operations and services being provided. Long-range goals and objectives to achieve a safe, healthful environment shall be formulated.

2. The person with primary responsibility for managing the Concessionaire's RMP is assumed to be 'the Concessionaire' unless otherwise identified. This person's responsibilities and authority are clearly stated. Sufficient documentation is provided to verify that the designated safety and health official has carried out his or her assigned responsibilities; such documentation may include inspection reports, records of training sessions conducted or attended, accident or incident reports and follow-ups, analysis of accident trends, etc.
3. Supervisors are assigned the responsibility to conduct routine safety inspections of the assigned work areas, job sites, etc. Procedures to evaluate all employees on compliance with the Concessionaire's RMP are identified. Employees are encouraged to report unsafe or unhealthy working conditions.
4. Adequate funds or other resources have been set aside to cover the needs for staff, training, personal protective equipment, safety literature, etc., commensurate with the size and complexity of the concession operation.
5. Specific goals and objectives are established annually for achieving a safer and more healthful work environment. These may be based on needs identified in prior reporting periods (e.g., specific goals for reducing back injuries; expanding safety segments of general orientation training for seasonal wait staff, housekeepers, and maintenance workers; and purchasing and using an expanded safety videotape library).
6. Summary of accidents and injuries listing total number and total lost-days should be reported to Reclamation annually. Employees are involved in the program through committees, suggestion programs, or other systems for reporting workplace hazards.
7. Safety and health information is available to all permanent and seasonal employees. OSHA "right to know" posters (OSHA 2203) are prominently displayed in areas frequented by staff.
8. A schedule for inspecting all facilities, equipment, and public use areas has been developed. The frequency and timing of inspections for all facilities and equipment are identified and are commensurate with the complexity or seasonality of the operation. Any facilities or equipment requiring specialized safety inspections (e.g., docks and marinas) are identified, and a schedule is established in accordance with the manufacturer's recommendations, governing or professional organization recommendations, etc. Inspections are conducted according to the established schedule.
9. Procedures for documenting inspections, reporting hazards, etc., are established. Inspections are conducted as required.
10. Inspectors are identified. Inspectors have the knowledge, skills, and abilities to recognize, evaluate, and make recommendations for corrective actions. Inspectors are familiar with the operation being inspected and typical problems that might be associated with it. Inspectors understand and follow the established procedures for documenting and reporting hazards. Inspector's follow-up to ensure that hazards are abated within established time limits.
11. All inspection records are kept for a minimum of three (3) years and must be made available to Reclamation upon request. Such records must include the following information: date of

inspection, names of facility/building, identified deficiencies/hazards, classification of deficiencies, abatement date or action plan to correct deficiencies, and name of person conducting inspection.

12. High risk dangers are to be abated immediately. An example is a dangling power line. Abatement methods include correction of the deficiency or other action to reduce risk temporarily to staff and visitors. If abatement cannot be immediately achieved, the facility or service must be closed.
13. "Serious hazard" deficiencies are abated within approximately fifteen (15) days or other reasonable timeframe as established by the Concessionaire and approved by Reclamation. Abatement methods include correction of the deficiency or other action to reduce risk temporarily to staff and visitors. If abatement cannot be immediately achieved, the facility or service must be closed.
14. Non-serious hazards should be abated within forty-five (45) days or a reasonable time frame as established by the Concessionaire and approved by Reclamation. Abatement methods include correction of the deficiency or other action to reduce risk temporarily to staff and visitors.
15. Accident/incident reporting and investigation procedures should be documented. Such procedures must include, but are not limited to, the types of accidents to be reported, the forms to be used to properly document accidents/incidents, the person(s) responsible for reporting and/or investigating accidents/incidents and for completing the forms, and required timeframes for reporting and documenting accidents/ incidents. Corrective action is taken to reduce or eliminate recurrence of accidents. Records are maintained verifying that accidents were reported and documented as required by Reclamation, OSHA, Office of Workers' Compensation, etc.
16. A plan has been developed outlining procedures for accident reporting. Employees are aware of these procedures. Reportable accidents/incidents include any fatalities, visitor incidents with likelihood of a tort claim against the United States, and fires. Employees are aware of the type of accidents/incidents that must be reported to Reclamation. Such records should include the date the accident/incident was reported, to whom, and by whom.
17. Activity related hazards (e.g., safety orientation for safety orientation for jet skis, motor boats, and horseback rides) are effectively communicated to area of operation visitors.
18. Resource-related hazards that exist within the scope of the concession operation (e.g., falling rocks, wild animals, Lyme disease, trail or river conditions, and hypothermia) are effectively communicated to area of operation visitors and staff.
19. Training plans for supervisors and employees should be planned by the Concessionaire. Identify the training requirements for all supervisors. Required subject matter and required training courses are identified and provided. All accomplished training is documented.
20. Training plans and accomplished training for employees - Second priority (B). Identify the training requirements for all employees. Including safety training that is appropriate to the job being performed, as well as general safety information. Required subject matter and required training courses are identified and provided. All accomplished training is documented.

21. Procedures are documented for all probable occurrences - Second priority (B). An emergency action plan is developed that identifies occurrences that will require specific procedures to be followed in the interest of life safety and property protection (e.g., earthquakes, floods, fires, bomb threats, and hazardous material spills or releases).
22. The Concessionaire has coordinated all emergency action plans with Reclamation. The plans are reviewed annually and updated as necessary.
23. Plans are distributed to employees or posted conspicuously. Employees are familiar with emergency action plans and are aware of their individual responsibilities in implementing such plans.
24. The Concessionaire will be evaluated according to the schedule indicated in the Operating Plan, exhibit C, by Reclamation. This will constitute the safety portion of the Safety and Environmental Evaluation. The evaluation will be based on a review of the Concessionaire's safety program and will evaluate Concessionaire compliance with the performance standards. The Concessionaire shall provide Reclamation access to its records, including any annual statistical information that may be required by Reclamation. As part of the evaluation, Reclamation personnel may conduct random on-site reviews of facilities and equipment to evaluate the effectiveness of the Concessionaire's own inspection program.

P. FUEL STORAGE

1. The Concessionaire shall be responsible for compliance with all applicable laws pertaining to underground and aboveground fuel storage. The Concessionaire must provide Reclamation with copies of all reports and correspondence to, or required by, any regulatory agency pertaining to fuel storage. If any leak detection testing indicates a possible release or leak from a tank, Reclamation must be notified immediately; the Concessionaire will be responsible for fulfilling all reporting, monitoring, and remediation requirements associated with a leak or release.
2. Reclamation must approve all plans for any work involving underground and aboveground fuel storage tanks, tracer probes, monitoring wells, removal of contaminated soil, and groundwater remediation work.

SECTION 4 - LAND AND FACILITIES USED IN OPERATION

A. ASSIGNMENT OF LAND AND IMPROVEMENTS

Reclamation hereby authorizes the Concessionaire to use the following real property and Reclamation improvements situated thereon for the purposes of this Contract:

1. The portion of land on the west shoreline of the area commonly known as Wragg Canyon Cove, Lake Berryessa, from corner marker 7-28 of the Bureau of Reclamation – Region II, Monticello Reservoir and Diversion Area and Highway Relocation Area, Sheet 7 of 25, 1946, Map No. 413-208-421, directly eastward to the actual shoreline, based on the lake elevation, then southward, to the southern most Bureau of Reclamation boundary of Wragg Canyon Cove, Lake Berryessa, following the centerline of Cherry Creek, then from Cherry Creek westward and northward following the Bureau of Reclamation boundary back to corner marker 7-28. The authorized lands are shown on exhibit A.
2. Concessionaire shall use his best efforts to maintain in good working order all Reclamation improvements described in exhibit F, during the period of this Contract.

B. WITHDRAWAL OF ASSIGNMENT

Reclamation may withdraw all or portions of the lands and improvements described above at any time during the term of this Contract if:

1. Reclamation determines that withdrawal is necessary for the purpose of conserving, preserving, or protecting area of operation resources or visitor enjoyment or safety
2. The operations utilizing the assigned Reclamation improvements have been terminated or suspended by Reclamation
3. All or a portion of the land assigned to the Concessionaire, Reclamation's improvements and/or the Concessionaire improvements are no longer necessary for the concession operation

Any permanent withdrawal of concession facilities assignments, which Reclamation or the Concessionaire considers to be essential for the Concessionaire to provide the visitor services required by this Contract, will be treated as a termination of this Contract pursuant to section 1. No other compensation is due the Concessionaire in these circumstances.

C. RECLAMATION AND CONCESSIONAIRE IMPROVEMENTS

"Reclamation improvement(s)," as used herein, means such real property improvements constructed upon or affixed to the lands assigned to the Concessionaire, including buildings, structures, fixtures, equipment, and other improvements, affixed to or resting upon the assigned lands in such a manner as to be a part of the realty, provided by Reclamation, during the term of this Contract.

The Concessionaire may not remove, dismantle, or demolish any Reclamation improvements in the area of operation without the prior approval of Reclamation.

Any salvage resulting from the authorized removal, severance or demolition of Reclamation improvements within the area of operation shall be the property of the United States.

In the event that an assigned Reclamation improvement is removed by the Concessionaire, abandoned, demolished, or substantially destroyed and no other improvement is constructed on the site, the Concessionaire, at its expense, shall promptly, upon the request of Reclamation, restore the site as nearly as practicable to its original condition.

"Concessionaire improvement(s)," as used herein, means such real property improvements, including buildings, structures, fixtures, equipment, and other improvements, affixed to or resting upon the assigned lands that were placed after the date of execution of this contract. All such improvements constructed upon or affixed to the lands assigned to the Concessionaire do not include any interest in the land upon which the improvements are located.

The Concessionaire may construct or install upon lands assigned to the Concessionaire under this Contract only those Concessionaire improvements that are determined by Reclamation to be necessary and appropriate for the conduct by the Concessionaire of the services required and/or authorized under this Contract in writing. Construction or installation of Concessionaire improvements and associated expenditures may occur only after the written approval by Reclamation of their location, plans, and specifications. Expect up to 90 days review for project consideration. Reclamation may prescribe the form and content of the application and the procedures for such approvals. The desirability of any project, as well as the location, plans, and specifications thereof will be reviewed in accordance with Applicable Law, and Reclamation Manual Directives and Standards and Policy.

Approved docks constructed by the Concessionaire for the term of this Contract shall have a straight line depreciation of 15 years. The fair value of the docks at the end of the terms to this Contract shall be the cost of the docks, divided by the depreciation in months, multiplied by the depreciation in months minus the docks age in months $(\text{Cost/Depreciation in Months}) * (\text{Depreciation in Months} - \text{Age in Months})$. Example $(\$1,000,000/180) * (180-24) = \$866,667$. Once the depreciation period of 15 years has passed, the dock becomes the property of the United States.

Approved buildings constructed by the Concessionaire for the term of this Contract shall have a straight line depreciation of 20 years. The fair value of the building at the end of the terms to this Contract shall be the cost of the building, divided by the depreciation in months, multiplied by the depreciation in months minus the age of the building in months $(\text{Cost/Depreciation in Months}) * (\text{Depreciation in Months} - \text{Age in Months})$. Example $(\$1,000,000/240) * (240-24) = \$900,000$. Once the depreciation period of 20 years has passed, the building becomes the property of the United States.

All other Concessionaire improvements constructed or installed by the Concessionaire will immediately become the property of the United States and be considered concession facilities. The Concessionaire

may not remove, dismantle, or demolish Concessionaire improvements in the area of operation without the prior approval of Reclamation.

Any salvage resulting from the authorized removal, severance, or demolition of Concessionaire improvements within the area of operation shall be the property of the United States.

In the event that a Concession improvement or an assigned Reclamation improvement is removed, abandoned, demolished, or substantially destroyed, and no other improvement is constructed on the site, the Concessionaire, at its expense, shall promptly, upon the request of Reclamation, restore the site as nearly as practicable to its original condition.

Title to all Reclamation improvements shall be vested in the United States of America and are subject to other limitations as set forth in this Contract. Any monetary interest of the Concessionaire in such improvements, in accordance with this Contract, shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity. The use or enjoyment of and such structure, fixture, or improvement shall be wholly subject to the applicable provisions of this Contract and to the laws and regulations relating to the area of operation.

D. PERSONAL PROPERTY

The Concessionaire shall provide all personal property, including but not limited to, removable equipment, vehicles, vessels, furniture, inventory, and goods necessary for its operations under this Contract. Such personal property shall not be considered concessionaire improvements, and the Concessionaire shall not be entitled to any reimbursement or other means of compensation from the government for such personal property.

Reclamation may provide certain items of Government personal property, including but not limited to, removable equipment, furniture, and goods for the Concessionaire's use in the performance of this Contract. Reclamation may modify exhibit F from periodically, as items are withdrawn and items added. The Concessionaire shall be accountable to Reclamation for the Government personal property assigned to it and shall be responsible for maintaining the property as necessary to keep it in good and operable condition, reasonable wear and tear excepted. Any replacement of such personal property provided by the Concessionaire shall become the property of the Government. If the property ceases to be serviceable, it shall be returned to Reclamation for disposition.

The Concessionaire shall be permitted to sell its personal property, used in the concession operation, on the Federal estate, to the subsequent concessionaire. However, the Concessionaire may not sell any other personal property on the Federal estate or sell any of its personal property used in the concession operation to any party other than a subsequent concessionaire on the Federal estate. The sale of personal property assets by anyone other than the Concessionaire is prohibited. This includes the sale of trailers and associated improvements, boats, vehicles and any other items. If a trailer permittee wants to sell their trailer or other property, it must first be removed from the Federal estate.

E. CONDITION OF CONCESSION FACILITIES

The Concessionaire has inspected the concession facilities and all assigned Government personal property, is thoroughly acquainted with their condition, and accepts the concession facilities, and any assigned Government personal property, "as is."

F. UTILITIES

Reclamation may provide utilities to the Concessionaire for use in connection with the operations required or authorized under this Contract when available and at reasonable rates reflecting the cost to provide such services and to be determined by Reclamation's discretion and in accordance with Applicable Laws.

If Reclamation does not provide utilities to the Concessionaire, the Concessionaire shall, with the written approval of Reclamation and under any requirements that Reclamation shall prescribe, secure necessary utilities at its own expense from sources outside the area of operation or shall install the utilities within the area of operation with the written permission of Reclamation, subject to the following conditions: If requested by Reclamation, the Concessionaire must provide to Reclamation any utility service provided by the Concessionaire for its operations to such extent as will not unreasonably restrict anticipated use by the Concessionaire. Unless otherwise agreed by the Concessionaire and Reclamation in writing, the rate per unit charged Reclamation for such service shall be approximately the average cost per unit of the Concessionaire providing such service for its own operations.

Reclamation shall first approve all appliances and machinery to be used in connection with the privileges granted in this subsection, as well as the plans for location and installation of such appliances and machinery.

G. MAINTENANCE OBLIGATION AND MAINTENANCE PLAN

The Concessionaire shall be solely responsible for the physical maintenance, repairs, housekeeping, grounds keeping, and landscaping for all concession facilities used in operations under this Contract, to the satisfaction of Reclamation.

For these purposes, the Concessionaire shall undertake appropriate inspections and shall establish and revise, as necessary, a Maintenance Plan consisting of specific maintenance requirements, which shall be adhered to by the Concessionaire. The Maintenance Plan will be submitted by the Concessionaire within 60 days from the date of this contract and, when approved by Reclamation, shall become Exhibit B, attached herein. Reclamation, in his discretion, may make reasonable modifications to the Maintenance Plan from time to time after consultation with the Concessionaire. Such modifications shall be in furtherance of the purposes of this Contract and shall not be inconsistent with the terms and conditions of the main body of this Contract.

H. RESERVE ACCOUNT FOR FACILITIES IMPROVEMENT

Due to the nature of this Contract there will not be a Reserve Account for Facilities Improvement (RAFI).

I. LIVESTOCK, FARM ANIMALS AND DOMESTIC PETS

Livestock or farm animal breeding or grazing, free roaming exotic/feral animals, and domestic fowl are prohibited within the area of operation. The Concessionaire must take the appropriate legal steps necessary to remove these animals or fowl. In the event that animals are necessary for the operation of the concession, Reclamation will be informed in writing of the purpose, type, and number of species, before requesting approval by Reclamation.

The Concessionaire is allowed to accommodate clients and visitors with domestic pets in accordance with

Napa County Ordinances. To protect the health and safety of the animals, employees, and visitors, animals will not be allowed to freely roam the area of operation or the Federal estate.

J. REMOVAL OF PROPERTY AND SITE RESTORATION

At the expiration of this interim Contract, the Concessionaire is responsible for the removal of all personal property and concessionaire improvements by December 1, 2007.

The Concessionaire has the responsibility to ensure that of all private trailer owners remove their personal property by December 15, 2005. It is expected that this action will be managed through directives and oversight to the individual trailer owners, however, if any of those individual trailer owners abandon their property, it will be the Concessionaire's responsibility to properly arrange and fund removal and disposal by February 28, 2006.

Under this Contract, the Concessionaire is obligated to submit a detailed removal plan by August 15, 2005, of facilities that have been determined not to be needed or wanted in the next long-term contract (see Section 10.A.7). Clean-up and removal shall be done subject to a plan submitted by the Concessionaire and approved by Reclamation or as directed by Reclamation. The intent being the removal of Concessionaire's personal property and all permittees property, leaving the site in reasonable condition for future recreational use, as determined by Reclamation.

SECTION 5 - COMPENSATION

A. REIMBURSEMENT FOR INVESTMENTS IN FIXED ASSETS CONSTRUCTED BY CONCESSIONAIRE

All permanent facilities placed by the Concessionaire in the area of operation shall be considered the property of the Concessionaire. Any permanent additions or modifications to these facilities shall remain the property of the Concessionaire. The Government, however, may require that the fixed assets mentioned herein not be removed from the concession area, and instead pay the actual cost less depreciation, for the permanent facilities, or, if a new concessionaire assumes operation of the concession, require that the new concessionaire pay the actual cost less depreciation for the facilities to the existing concessionaire.

When this Contract expires, the Concessionaire shall have the right to remove permanent facilities and improvements unless the Government directs otherwise. Facilities not removed by the Concessionaire shall be deemed abandon property starting on December 2, 2007. The Concessionaire shall have the right to be paid the actual cost less depreciation for permanent facilities and improvements which the Government directs him not to remove.

B. CONDITIONS OF REIMBURSEMENT

When this Contract expires, the Concessionaire shall be compensated according to section 5 A of the Contract. When paid such value, the Concessionaire shall relinquish any claim to reimbursement.

In the event this Contract is terminated due to Concessionaire default, the Concessionaire shall forfeit and not receive any reimbursement for its investment in fixed assets or improvements.

If, for any reason, including Contract expiration, termination for bankruptcy or termination for any other reason, the Concessionaire shall cease to be authorized by Reclamation to conduct operations under this Contract, and at the discretion of Reclamation, the Concessionaire may be required to remove any or all improvements and personal property and to restore the area of operation to a satisfactory condition as approved by Reclamation. Removal of the Concessionaire's improvements or other property and cleanup of the area of operation will be the responsibility of the Concessionaire and is not compensable. Reclamation shall specify a time period within which the Concessionaire shall remove such improvements or other property and clear or restore the area of operation. All improvements or other property not removed within the time period specified will be considered abandoned and will automatically become property of the United States of America without compensation to the Concessionaire and will be subject to disposal under Federal regulations. Any required removal of abandoned improvement property, personal property, and cleanup work remaining after the period specified will be performed by Reclamation, and the Concessionaire shall be liable for all associated costs.

C. COMPENSATION FOR PERSONAL PROPERTY

No compensation is due the Concessionaire from Reclamation or a successor concessionaire for the Concessionaire's personal property used in operations under this Contract. However, Reclamation or a successor concessionaire may wish to purchase such personal property from the Concessionaire. Whether such personal property is sold, and the purchase price of the personal property shall be determined by

mutual agreement between the Concessionaire holding this Contract and the successor concessionaire or Reclamation.

Personal property not removed from the area by the Concessionaire in accordance with the terms of this Contract shall be considered abandoned property subject to disposition by Reclamation, at full cost and expense of the Concessionaire, in accordance with Applicable Law. Any cost or expense incurred by Reclamation as a result of such disposition may be offset from any amounts owed to the Concessionaire by Reclamation to the extent consistent with Applicable Law.

SECTION 6 – FEES

A. FRANCHISE FEE

Due to the nature of this interim Contract the franchise fees due will be \$1000 for each of the two full years, and \$500 for the final 6 months of this Contract. This fixed fee is stipulated to help assure a reasonable opportunity for a profit to the interim Concessionaire. This approach permits an increased level and opportunity for focusing operational efforts and financial resources on providing the necessary programs and facilities to the public.

The franchise fee is a direct return to the Federal Government and is a fair and equitable charge levied by the Government for the use, rights, and privileges granted under this Contract, and shall be remitted in a timely fashion to a designated Reclamation lock box to the U.S. Treasury for disposition.

Neither the Concessionaire nor Reclamation shall have a right to adjust the franchise fees in this Contract. The Concessionaire has no right to a waiver of the franchise fee under any circumstances.

B. PAYMENTS DUE

The first franchise fee shall be due July 1, 2005, the second fee is due on July 1, 2006, and the final fee of \$500 is due on July 1, 2007. Should the Contract be terminated early for whatever reason the franchise fee will be due and payable upon termination, if not already paid for that year. The end of the Contract is December 1, 2007.

C. INTEREST

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed beyond the fifteen (15) day period provided for above. At the discretion of Reclamation, the Contract may be immediately terminated if the franchise fee is more than 30 days late. The percent of interest charged will be equal to the current value of funds rate to the United States Treasury as published quarterly in the *Treasury Financial Manual*. Reclamation may also impose penalties for late payment to the extent authorized by Applicable Law.

SECTION 7 - INDEMNIFICATION AND INSURANCE

A. INDEMNIFICATION

The Concessionaire agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend, and indemnify the United States of America, its agents, and employees from and against any and all liabilities, obligations, losses, damages or judgments, including but not limited to, penalties and fines, claims, actions, suits, costs and expenses, (including but not limited to, attorneys' fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessionaire, its employees, agents, subcontractors, or contractors under this Contract. This indemnification shall survive the termination, bankruptcy, or expiration of this Contract.

B. WAIVER RELEASE

The Concessionaire hereby releases the United States and waives all claims that he may have asserted against the United States on the date that this concession Contract is executed.

C. INSURANCE IN GENERAL

The Concessionaire shall obtain and maintain during the entire term of this Contract at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of this Contract subject to the approval of Reclamation. The initial insurance requirements are a \$3,000,000 policy. Any changes or additional requirements that Reclamation determines necessary must be reasonable and consistent with the types and coverage amounts of insurance a prudent business person would purchase in similar circumstances. Before signing the Contract, the Concessionaire shall report to Reclamation, and Reclamation shall approve, the types and amounts of insurance coverage to be purchased by the Concessionaire. The Concessionaire shall purchase such insurance to be effective as of the date of signing the Contract.

Reclamation will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by the Concessionaire proves to be inadequate or otherwise insufficient for any reason whatsoever.

D. CERTIFICATE OF INSURANCE AND CERTIFICATE OF ENDORSEMENT

At the request of Reclamation, the Concessionaire shall, at the time insurance is first purchased and annually thereafter, provide Reclamation with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concessionaire shall provide Reclamation immediate written notice of any material change in the Concessionaire's insurance program hereunder, including without limitation, cancellation of any required insurance coverage. Furthermore the Concessionaire will provide Reclamation with a Certificate of Insurance and Certificate of Endorsement (COE) through the insurance company. Their COE will provide Reclamation with early notice of policy change or cancellation.

E. COMMERCIAL PUBLIC LIABILITY

The Concessionaire shall provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concessionaire or its employees, agents or contractors, in carrying out the activities and operations required or authorized under this Contract. This insurance shall be in the amount commensurate with the degree of risk and the scope and size of the activities required or authorized under this Contract, as more specifically set forth in Sec. 7.C. Furthermore, the commercial general liability package shall provide no less than the coverage and limits described in Sec. 7.C. All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America and shall provide that the United States of America is named an additional insured.

From time to time, as conditions in the insurance industry warrant, Reclamation may, at his discretion, modify Sec. 7.C. to revise the minimum required limits or to require additional types of insurance, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

F. PROPERTY INSURANCE

In the event of damage or destruction, the Concessionaire will repair or replace those concession facilities and personal property utilized by the Concessionaire in the performance of the Concessionaire's obligations under this Contract.

For this purpose, the Concessionaire shall provide fire and extended insurance coverage on concession facilities for all or part of their replacement cost in amounts no less than Reclamation may require during the term of the Contract.

Commercial property insurance shall provide for the Concessionaire and the United States of America to be named insured as their interests may appear.

In the event of loss, the Concessionaire shall use all proceeds of such insurance to repair, rebuild, restore, or replace concession facilities and/or personal property utilized in the Concessionaire's operations under this Contract as directed by Reclamation. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Sec. 7.H. shall apply to such insurance proceeds. The Concessionaire shall not be relieved of its obligations because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.

Insurance policies that cover concession facilities shall contain a loss payable clause approved by Reclamation that requires insurance proceeds to be paid directly to the Concessionaire without requiring endorsement by the United States. The use of insurance proceeds for repair or replacement of concession facilities will not alter their character as properties of the United States and, notwithstanding any provision of this Contract to the contrary, the Concessionaire shall gain no ownership or other compensable interest as a result of the use of these insurance proceeds, and the Concessionaire's CIR, if any, will be limited to the value which the Concessionaire would otherwise have obtained less any costs to the Government, necessitated by the use of insurance to repair or replace concession facilities.

G. ESCROW

The Concessionaire is required to have an interest bearing escrow account in the amount of \$750,000 in place at the time of signing this contract. In the event that the Concessionaire does not fulfill his responsibilities under the terms of this Contract, the escrow account will cover Reclamation's costs, if any. This escrow account will guarantee that Reclamation will have some reasonable assurance of faithful performance by the Concessionaire's obligations under this Contract. The escrow account shall be set up to be payable to Reclamation to cover such Reclamation costs. Prior to Reclamation requesting Escrow Agent to disburse funds, Reclamation shall first provide to Concessionaire notice in writing of deficiency requiring the proposed action by Reclamation and also provide a 60 day period which may extend beyond the date on which the contract expires or is terminated for the Concessionaire to correct the deficiency. In the event that the concessionaire has not corrected the deficiency within the 60 day period, Reclamation shall have the right to request Escrow Agent to disburse funds not to exceed \$750,000. The clean-up of the marina will be completed by the Concessionaire or before the escrow account is released by Reclamation. An additional increase in the escrow account may be requested or required by Reclamation at any time during the term of this Contract.

H. LIEN

As additional security for the faithful performance by the Concessionaire of its obligations under this Contract, and the payment to the Government of all damages or claims that may result from the Concessionaire's failure to observe any such obligations, the Government shall have at all times the first lien on all assets of the Concessionaire within the area of operation, including, but not limited to, all personal property of the Concessionaire used in performance of the Contract hereunder within the area of operation and any CIR of the Concessionaire.

SECTION 8 - ACCOUNTING RECORDS AND REPORTS

A. ACCOUNTING SYSTEM AND ANNUAL FINANCIAL REPORTS

The Concessionaire shall maintain a financial accounting system under which its accounts can be readily identified with its system of accounts classification. Such an accounting system shall be capable of providing the information required by this Contract. The Concessionaire's system of accounts classification shall use without exception and without modification, the Concessionaire Annual Financial Report form issued by Reclamation.

If the Concessionaire's annual gross receipts are \$250,000 or more, the Concessionaire must use the accrual accounting method. If annual gross receipts are less than \$250,000, the financial statements may be prepared without involvement of an independent certified public accountant, unless otherwise directed by Reclamation.

In computing net profits for any purposes of this Contract, the Concessionaire shall keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this Contract by means of arrangements for the procurement of equipment, merchandise, supplies, or services from sources controlled by or under common ownership with the Concessionaire or by any other device including, but not limited to, management fees.

The Concessionaire shall submit annually, as soon as possible but not later than ninety (90) days after the last day of its fiscal year, a financial statement for the preceding fiscal year or portion of a year, as prescribed by Reclamation.

If the annual gross receipts of the Concessionaire are in excess of \$1,000,000, the financial statements shall be audited by an independent certified public accountant in accordance with Generally Accepted Auditing Standards and procedures promulgated by the American Institute of Certified Public Accountants.

If annual gross receipts are between \$250,000, and \$1,000,000, the financial statements shall be reviewed by an independent certified public accountant in accordance with Generally Accepted Auditing Standards and procedures promulgated by the American Institute of Certified Public Accountants.

B. BALANCE SHEET

Within ninety (90) days of the execution of this Contract or its effective date, whichever is later, the Concessionaire shall submit to Reclamation a balance sheet as of the beginning date of the term of this Contract. The balance sheet shall be audited or reviewed, as determined by the annual gross receipts, by an independent Certified Public Accountant. The balance sheet shall be accompanied by a schedule that identifies and provides details for all capital improvements in which the Concessionaire claims a CIR. The schedule must describe these capital improvements in detail showing for each such capital improvement the date acquired, constructed, or installed and separate itemization of labor costs and equipment costs, without alteration and without modifications.

C. OTHER REPORTING REQUIREMENTS

The following describes certain other reports required under this Contract:

1. INSURANCE CERTIFICATION

- a. The Concessionaire shall, at the request of Reclamation, provide Reclamation with a Certificate of Insurance and Certificate of Endorsement for all insurance coverage related to its operations under this Contract. The Concessionaire shall give Reclamation immediate written notice of any material change in its insurance program, including without limitation, any cancellation of required insurance coverage.

2. ENVIRONMENTAL AND RISK MANAGEMENT REPORTING

- a. The Concessionaire shall submit environmental and risk management reports as specified in section 3 of this Contract and including, but not limited to, exhibit D, and as otherwise required by Reclamation under the terms of this Contract.

3. MISCELLANEOUS REPORTS AND DATA

- a. Reclamation from time to time requires the Concessionaire to submit other reports and data regarding its performance under the Contract or otherwise, including, but not limited to, the Operational and miscellaneous financial report, and the Concession Use Data Report.

4. ACCIDENT/INCIDENT REPORTS

- a. The Concessionaire shall submit accident/incident reports as specified in the RMP to Reclamation within one week of the occurrence. Forms shall be provided by Reclamation.

SECTION 9 - GENERAL PROVISIONS

A. ACCESS TO RECORDS

Reclamation and Comptroller General of the United States, or any of their duly authorized representatives, shall have access to the records of the Concessionaire as provided by the terms of Applicable Law.

B. PUBLIC RELEASE OF INFORMATION

Reclamation requires that all information to be submitted by the Concessionaire pursuant to this Contract be subject to public release by Reclamation to the extent provided by Applicable Law.

C. NO SUB-CONCESSIONS

Sub-concessions or other third party agreements, including management agreements, for the provision of visitor services required and/or authorized under this Contract are not permitted.

D. NON-ENTITLEMENT FOR FEDERAL PROCUREMENT PROCESS OR SERVICE

The Concessionaire is not entitled to be awarded or to have negotiating rights to any Federal procurement or service Contract by virtue of any provision of this Contract.

E. PAYMENT OF TAXES

All taxes or assessments of any nature that may be lawfully imposed by any State or its political subdivisions upon the property or business of the Concessionaire shall be paid promptly by the Concessionaire.

F. POLITICAL INFLUENCE AND CONFLICT OF INTEREST

No member of the Judicial, Legislative, or Executive branches of the U.S. Government shall be admitted to any share or part of this Contract or to any benefit that may arise from this Contract, but this restriction shall not be construed to extend to this Contract if made with a corporation or company for its general benefit.

G. DEBARMENT AND SUSPENSION

This Contract is subject to the provisions of 43 CFR; Subtitles A and B, concerning non-procurement debarment and suspension. Reclamation may recommend that the Concessionaire be debarred or suspended in accordance with the requirements and procedures described in those regulations as they are in effect now or may be revised in the future.

H. EXTENSIONS AND AMENDMENTS

This Contract contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this Contract. This Contract may not be extended. It may be amended

only when agreed to in writing by Reclamation and the Concessionaire.

I. THIRD PARTIES

This Contract does not grant rights or benefits of any nature to any third party.

J. VALIDITY OF PROVISIONS

The invalidity of a specific provision of this Contract shall not affect the validity of the remaining provisions of this Contract.

K. WAIVERS

A waiver by Reclamation or the Concessionaire of any breach of any of the terms of this Contract by the other party shall not be deemed to be a waiver or elimination of such terms, nor of any subsequent breach of the same type, or of any other term of the Contract. The subsequent acceptance of any payment of money or other performance required by this Contract shall not be deemed to be a waiver of any preceding breach of any term of the Contract.

L. CORRUPTION AND FRAUD

Claims against Reclamation (to the extent subject to 28 U.S.C. 2514) arising from this Contract shall be forfeited to Reclamation by any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance thereof within the meaning of 28 U.S.C. 2514. In the event that a background check of the Concessionaire's personal conduct and financial capability is determined to be unacceptable, Reclamation may recommend that the Concessionaire be debarred or suspended in accordance with the requirements and procedures described in those regulations as they are in effect now or may be revised in the future.

M. SIGNS

The installation of any new signs must be approved by Reclamation in writing. Reclamation may require the removal or replacement of any existing signs. Signs that indicate that something is "For Sale" are strictly prohibited.

N. ADVERTISEMENT

All advertisement and promotional material, regardless of media format, must be approved by Reclamation.

O. REQUIRED REPORTS, DOCUMENTS AND DATA

The Concessionaire shall supply to Reclamation all reports, documents, and data required by this Contract in accordance with Reclamation Manual Directives and Standards and Policy.

P. SUBMITTING PROPOSALS FOR ALL LONG AND SHORT-TERM SERVICES

The Concessionaire shall submit to Reclamation a fee proposal in the form of a request for all short and long-term services charged by 30 days from the execution date of this contract. This shall include long-term mobile home and trailer sites; long and short-term boat slips; lodging; camp sites, RV sites, boat rental, boat storage, other storage and any other service provided to customers of the Concessionaire.

SECTION 10 - SPECIAL PROVISIONS

A. OPERATIONAL REQUIREMENTS

The following describes certain operational requirements under this Contract:

1. TERMINATION OF PERMIT BY CONCESSIONAIRE

The Concessionaire shall submit any permit termination notice of a mobile home, travel trailer, dock berth or private dock, etc. for approval by Reclamation. The notice shall include a justification for the termination.

2. EMPLOYEE RESIDENCES

During the duration of this short-term Contract, employees may not bring in a mobile home to use as a residence. Any new residence brought into the marina by or for an employee will be limited to bringing in a recreational vehicle which is limited in size to 8½ feet in width by 45 feet in length. No new or replacement long-term trailers are allowed under this Contract.

3. LONG-TERM RECREATIONAL PERMIT AGREEMENTS

The Concessionaire shall submit a draft rental agreement for long-term recreation permittee trailer sites for approval by Reclamation within 30 days from the date of this contract. Once approved by Reclamation, the Concessionaire shall enter into agreements with authorized permittees of mobile homes and travel trailers within 30 days. The term of the rental agreements shall be month to month and will expire on or before November 1, 2005. The rental agreements may be terminated by the permittee at any time, with a 30 day written notice. A refund of any advance payments shall be returned to the permittee by the end of the 30 day period, pending site inspection by Reclamation.

4. DOCK BERTH AGREEMENTS

The Concessionaire shall submit a draft rental agreement for approval from Reclamation within 30 days from the date of this contract. Once approved by Reclamation, the Concessionaire shall enter into agreements with authorized permittees of dock berths within 30 days. The term of the rental agreements shall be month to month and will expire on or before December 1, 2007. The rental agreements may be terminated by the permittee at any time, with a 30 day written notice. A refund of any advance payments shall be returned to the permittee by the end of the 30 day period.

5. DOCK MASTER AGREEMENT TERMS

The Concessionaire shall enter into new dock master agreements within 30 days from the date of this contract. The term of the new agreements shall expire on November 1, 2005.

6. RESERVATION POLICY

The concessionaire shall develop and submit a reservation policy to Reclamation for approval within 30 days from the date of this contract.

7. PROPERTY REMOVAL PLAN

Under this Contract, the Concessionaire is obligated to submit a detailed removal plan by August 15, 2005, of facilities that have been determined not to be needed or wanted in the next long-term contract. Under this Contract, the Concessionaire is obligated to remove the following:

Facility	Due Date
Abandoned mobile homes, travel trailer and associated improvements (above the ground level)	February 28, 2006
Abandoned Dock Master docks	February 28, 2006
Restaurant/Office Building (above the ground level)	Begin no later than September 10, 2007 to ensure completion by December 1, 2007
Ghetto Restroom/Laundry Building (above the ground level)	Begin no later than September 10, 2007 to ensure completion by December 1, 2007
Remaining old docks	Begin no later than September 10, 2007 to ensure completion by December 1, 2007

The escrow account will not be released by Reclamation until the removal of these structures is completed by the Concessionaire or contractor.

B. OPERATIONAL AND CONCESSION POLICIES

Under this Contract, the Concessionaire is obligated to operate within the requirements of current Reclamation Policy, Directive & Standards, and Guidelines, and Lake Berryessa Operational Policies. The policies, directives, standards, and guidelines (and any amendments to) that apply to this Contract include:

- OP-1 – Houseboat Policy.
- OP-2 – Dock, Buoy and Boat Policy
- OP-4 – Long-term Use Policy
- OP-5 – Short-term Use Policy
- OP-6 – Mobile Home Park Standards Policy
- OP-7 – Concession Maintenance Policy
- OP-8 – Commercial Use of Trailers Policy
- OP-9 – Seaplane Use Policy
- OP-10 – Wood Collection Policy
- OP-12 – Long-term Site Improvement Policy
- OP-14 – Long-term Administration Policy
- OP-15 – Flood Plain Policy
- Reclamation Manual / Policy LND P02
- Reclamation Manual / Directives and Standards LND 04-01

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this
CONCESSION CONTRACT as of the 1st day of June, 2015

CONCESSIONAIRE	UNITED STATES OF AMERICA
By: <u>[Signature]</u>	By: <u>[Signature]</u>
Title: <u>Manager</u>	Director, Mid-Pacific Region
Company	Bureau of Reclamation
Name: <u>Pleasure Cove Company, LLC</u>	

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY
[Signature]
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

SOLE PROPRIETORSHIP

Witnesses:

Name: _____
Address: _____
Title: _____